

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte KI-SEON KIM, SEON-WOO LIM, SANG-HYUN HAN,  
and SUNG-SU KWON

Appeal No. 2005-1606  
Application No. 09/503,240

HEARD: FEBRUARY 7, 2006

MAILED

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U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Before GARRIS, MCQUADE and BAHR, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 1, 13, 16 and 21 which are all of the independent claims pending in this application. The remaining dependent claims, which are claims 2-12, 14, 15, 17-20 and 22-25, stand objected to but otherwise allowable.

The subject matter on appeal relates to a monitor and to a method for constructing a monitor. With reference to the appellants' drawing, the monitor 50 comprises a front casing 51 having at least one snap portion 60 at an upper rear surface

thereof and at least one engaging pin 80 at a lower rear surface. The monitor further comprises a rear casing 53 having at least one engaging portion 70 at an upper front surface detachably engaging with the snap portion of the front casing, and at least one first hole, formed at a lower portion of the front surface. Finally, the monitor also includes a snap pin 100 engaging in the first hole in such a manner as to prevent the engaging pin from detaching from the first hole (i.e., when the engaging pin of the front casing is integrally engaged into the first hole of the rear casing). This appealed subject matter is adequately represented by independent claims 1 and 13 which read as follow:

1. A monitor, comprising:

a front casing having at least one snap portion at an upper rear surface of said front casing and at least one engaging pin at a lower rear surface of said front casing;

a rear casing having at least one engaging portion at an upper front surface detachably engaging with the snap portion of said casing, and at least one first hole formed at a lower portion of the front surface, said rear casing integrally engaged with said front casing in such a manner that the first hole is separately engaged to the engaging pin, said front and rear casings enclosing a cathode ray tube; and

a snap pin engaging in the first hole accommodating the prevention of the engaging pin from detaching from the first hole when the engaging pin of the front casing is integrally engaged into the first hole of said rear casing.

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13. A monitor having a cathode ray tube, comprising:
  - a front casing;
  - a rear casing engaging with said front casing enclosing the cathode ray tube;
  - an indent portion protruding from said front casing and said rear casing in a certain direction;
  - a detent portion forming at the opposite casing of said indent portion, said indent portion elastically transforming and inserting into said detent portion, and elastically transforming in the same direction as the engaging direction for thereby disassembling the front and rear casings; and
  - a guide forming at said detent portion accommodating the direction of said indent portion to said detent portion in an engaging position.

The references set forth below have been relied upon by the examiner in the obviousness-type double patenting rejection and the Section 103 rejection advanced on this appeal:

Beak	5,863,106	Jan. 26, 1999
Kim et al. (Kim)	6,233,026	May 15, 2001

All of the appealed claims have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,233,026 (i.e., the Kim patent).

Additionally, all of the appealed claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Beak.

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We refer to the brief and reply brief as well as to the answer and the final Office action mailed April 8, 2003 (which is alluded to on page 3 of the answer) for a complete exposition of the opposing viewpoints expressed by the appellants and by the examiner concerning the above noted rejections.

OPINION

For the reasons which follow, we cannot sustain either of the rejections advanced on this appeal.

Concerning the obviousness-type double patenting rejection, the examiner's position is described on page 2 of the final Office action in the following manner:

The patent claims all the various snap fittings, snap portions, snap pins, shoulder portions, engaging pins, detents, holes and surfaces. The difference being that the patent further claims a lower shield that is absent from the instant application and does not claim the rear casing. However, the use of a rear casing would be obvious as the pins of the front casing would, of necessity, engage with something and this would be a rear casing.

This rejection is without merit. While the patent claims of Kim are directed to a monitor comprising, inter alia, snap members and through holes, these members and holes are respectively part of a front case and a bottom shield for interconnection thereof. Thus, it is irrelevant whether use of a rear casing for the monitor claimed in the Kim patent would have

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been obvious. That is, even if associated with a rear casing, the monitor defined by the patent claims plainly would lack the appealed claim features by which the front and rear casings are connected. These appealed claim features include a rear casing engaging portion which detachably engages with a front casing snap portion, and a snap pin engaging in a rear casing first hole (see claim 1) as well as a casing indent portion which elastically transforms and inserts into a detent portion on the opposite casing (see claim 13).

Under these circumstances, it is apparent that the subject matter defined by the appealed claims cannot be regarded as merely an obvious variant of the subject matter defined by the patent claims to Kim, as fully explained by the appellants in their brief. See General Foods Corp. v. Studiengesellschaft Kohle mbH, 972 F.2d 1272, 1279-80, 23 USPQ2d 1839, 1845 (Fed. Cir. 1992). We hereby reverse, therefore, the examiner's obviousness-type double patenting rejection of claims 1, 13, 16 and 21 as being unpatentable over claims 1-11 of the Kim patent.

The examiner's position regarding the Section 103 rejection is premised on his belief that the appellants' claimed snap portion and engaging portion limitations are satisfied by Beak's

guide rails 11, 11' and guide ribs 42, 42' except that patentee's aforementioned elements are located at the lower surfaces of his casings rather than the upper casing surfaces as here claimed. The examiner's belief is clearly erroneous.

Beak's guide rails and guide ribs do not engage with one another as required by the claim 1 snap portion and engaging portion and as required by the claim 13 indent portion and detent portion. Instead, patentee's rails and guides are spaced from one another in the assembled condition as clearly illustrated in figures 2, 4 and 5 of the patent drawing. Also, as accurately explained in the brief, these guides and rails are not for the purpose of connecting the front and rear casings as in the appellants' claimed invention but rather are for the purpose of affixing patentee's printed circuit board 31 (e.g., see lines 11-57 in column 3).

In addition, the examiner has made the clearly erroneous finding that a snap pin of the type claimed by the appellants is disclosed by Beak as an unnumbered element "below feature 12 as best seen in fig. 3 . . . that engages the engaging pin to hold it in place" (final Office action, page 3). The only structural element shown in figure 3 below feature 12 (which is the elongated rail groove of guide rail 11) is the lower section of

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guide rail 11. This lower guide rail section is not a "snap pin" and does not perform the engaging function claimed by the appellants.

Each of the independent claims on appeal requires at least one of the limitations which are discussed above as being neither taught nor suggested by the Beak patent. It follows that we also hereby reverse the examiner's Section 103 rejection of claims 1, 13, 16 and 21 as being unpatentable over Beak.

REMAND

This application is hereby remanded to the examiner for the purpose of reopening prosecution so that certain issues raised by appealed independent claim 13 and by non-appealed dependent claims 14 and 15 can be addressed and resolved on the written record.

As an initial matter, we observe that claims 13-15 use terms and phrases which are not used in the written description of the invention set forth in the appellants' specification. For example, while the claim 13 phrase "indent portion" is also used on page 6 of the specification with reference to snap portion 60, the claim 13 phrase "detent portion" does not appear to have been used anywhere in the written description of the specification. Similarly, we do not find in the specification description the

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phrase "engaging groove" or the term "detent" of claim 14. It appears, therefore, that these claims do not conform to 37 CFR § 1.75(d)(1) which requires that

[t]he claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

For these reasons, the examiner must respond to this remand by addressing and resolving on the written record the issue of apparent nonconformance with Section 1.75 as discussed above.

Partly because the claim language does not conform to the specification description, claims 13-15 present some confusion as to the particular structure being defined by such language as "detent portion" and "engaging groove" and "detent."<sup>1</sup> Moreover, some confusion is created by other language in the claims under review.

For example, claim 13 recites "an indent portion protruding from said front casing and said rear casing in a

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<sup>1</sup>We here acknowledge with gratitude the efforts of the appellants' attorney to answer our questions concerning this claim language during the oral hearing of February 7, 2006. Notwithstanding these efforts, we remand this application so that such matters may be clarified, to the extent possible, on the written record of this application.

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certain direction." As indicated previously, page 6 of the specification reveals that this "indent portion" constitutes snap portion 60 which is shown in figure 3 as protruding from the front casing only. According to the aforequoted claim 13 recitation, however, the indent portion or snap portion protrudes from both the front casing and rear casing.

In fact, neither the specification description nor the drawing discloses an embodiment wherein a snap portion or indent portion protrudes from the rear casing. In this respect, the claim recitation appears to be inaccurate. Further, this recitation requires an indent portion protruding from the front and rear casings "in a certain direction" which appears to mean a single or same direction. Since the front and rear casings are opposed to one another, it would not be possible for an indent portion or snap portion to protrude from both of these casings in the same direction.

A thorough review of other language in these claims may reveal further instances of confusion.

In light of the foregoing, the examiner also must respond to this remand by addressing and resolving on the written record whether claims 13-15 comply with the second paragraph requirement of 35 U.S.C. § 112.

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SUMMARY

The decision of the examiner is reversed.

This application is hereby remanded to the examiner.

REVERSED and REMANDED

*Bradley R. Garris*  
BRADLEY R. GARRIS )  
Administrative Patent Judge )  
*John P. McQuade* )  
JOHN P. MCQUADE )  
Administrative Patent Judge )  
*Jennifer D. Bahr* )  
JENNIFER D. BAHR )  
Administrative Patent Judge )

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ROBERT E. BUSHNELL  
1522 K ST., N.W.  
STE. 300  
WASHINGTON, D.C. 20005-1202